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**FISCAL IMPACT STATEMENT**

**LS 6526**

**BILL NUMBER:** HB 1225

**NOTE PREPARED:** Dec 28, 2009

**BILL AMENDED:**

**SUBJECT:** Police Enforcement of Federal Immigration Laws.

**FIRST AUTHOR:** Rep. Lehe

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ **GENERAL**  
**DEDICATED**  
☒ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** The bill requires the Superintendent of the Indiana State Police Department (ISP) (Superintendent) to: (1) negotiate terms of a memorandum of understanding (memorandum) concerning a pilot project for the enforcement of federal immigration and customs laws; and (2) designate appropriate police employees to be trained under the memorandum.

The bill requires: (1) the Superintendent and Governor, unless otherwise required by the applicable federal agency, to sign the memorandum on behalf of the state; and (2) the ISP to apply for federal funding, as available, for the costs associated with training the police employees. The bill provides that a police employee certified as trained may enforce the federal immigration and customs laws.

**Effective Date:** July 1, 2009.

**Explanation of State Expenditures:** *Summary-* Under the bill, the ISP would experience an increase in administrative expenditures to apply for the federal 287(g) program, provide officer training, and enforce the provisions of the program. The expenditure amount would depend on the number of officers trained and additional number of persons incarcerated for a federal immigration or customs law violation.

Currently, when a state police officer makes an arrest, the offender is held in a place of detention within the jurisdiction of the arrest. The place of detention with jurisdiction can include state correctional facilities or local jails. Depending on where pilot program-trained officers make an arrest and where the arrested individual is taken for holding, state expenditures on detention can increase. Actual increases in state detention expenditures will depend on the number of undocumented aliens identified and taken for holding, offenses committed by the arrested, and where pilot program-trained officers take identified undocumented

aliens. The actual increase in expenditures is indeterminable.

Additionally, officers trained under the pilot program may have a responsibility to report criminal unauthorized aliens to the U.S. Department of Homeland Security or Immigration and Customs Enforcement for deportation. If this is the case and criminal undocumented aliens are either deported or are held temporarily for deportation hearings, then the state may not experience the full financial burden of detaining offenders for the duration of their sentence if convicted of felony offenses. State expenditures for holding criminal unauthorized aliens in state facilities will depend on federal action regarding deportation hearings.

**Background-** The Indiana Department of Correction (DOC) reports the following costs for detaining unauthorized aliens between SFY 2005 and SFY 2008. [Data for FY 2009 is, at this time, incomplete and was not used for this analysis.]

**Table A: Unauthorized Alien Cost to DOC.**

SFY	Average Daily Population of Unauthorized Aliens	Per Diem	Cost Per Day	Cost Per Year
2008	442.0	\$55.33	\$24,456	\$8,926,440
2007	475.0	\$52.61	\$24,990	\$9,121,259
2006	452.5	\$52.25	\$23,643	\$8,629,741
2005	378.5	\$57.69	\$21,836	\$7,970,018

**Explanation of State Revenues:** Under the State Criminal Alien Assistance Program (SCAAP), the federal government reimburses part of state and local expenditures incurred for correctional officer salary costs for incarcerating undocumented criminal aliens. To qualify, these undocumented criminal aliens must have at least one felony or two misdemeanor convictions for violations of state or local law and be incarcerated for at least four consecutive days during the reporting period.

SCAAP payments are calculated using a formula that provides a relative share of funding to jurisdictions that apply and is based on the number of eligible criminal aliens, as determined by the U.S. Department of Homeland Security. SCAAP payments made to applicants are received as a prorated payment based on costs submitted and qualifying inmates detained. All SCAAP payments must go to a jurisdiction's general fund. Actual amounts received from the SCAAP program are listed below in Table B.

**Background Information:** The following awards were received from the SCAAP program from FFY 2004 to FFY 2009. [The 2009 SCAAP award to DOC is included in Table B for reference only. Data for FY 2009 is, at this time, incomplete and was not used for this analysis.]

**Table B: SCAAP Awards to DOC.**

<b>FFY</b>	<b>Award Amount</b>
2009	\$1,148,637
2008	\$871,218
2007	\$621,918
2006	\$540,281
2005	\$263,919
2004	\$423,469

Of the SCAAP awards received by DOC, only a portion of their incurred costs were reimbursed. Tables A and B were used to calculate the percent of expenses that were reimbursed by the SCAAP program. [Data for FY 2009 is, at this time, incomplete and was not used for this analysis.]

**Table C: Partial Reimbursement Rate .**

<b>Year</b>	<b>Percent of DOC Cost Reimbursed by SCAAP</b>
2008	9.76%
2007	7.21
2006	6.78
2005	3.31

The U.S. Bureau of Justice provides the following list of reimbursable costs under the SCAAP program for FFY 2009 and 2010: salaries for corrections officers, overtime costs, corrections work force recruitment and retention, construction of corrections facilities, training or education for offenders, training for corrections officers related to offender population management, consultants involved with offender population, medical and mental health services, vehicle rental or purchase for transport of offenders, prison industries, pre-release or reentry programs, technology involving offender management and interagency information sharing, and disaster preparedness continuity of operations for corrections facility.

**Explanation of Local Expenditures:** When a state police officer makes an arrest, the offender is held in the place of detention within the jurisdiction of the arrest. The place of detention within the jurisdiction can include local jails and prisons. Local detention facilities may incur additional expenses if pilot program-trained officers take identified undocumented aliens for holding in local facilities. Actual increases in local expenditures will depend on the number of undocumented aliens identified and taken for holding, offenses committed by the arrested, and where pilot program-trained officers take identified undocumented aliens. The actual increase in expenditures is indeterminable.

Officers trained under the pilot program may report criminal unauthorized aliens to the U.S. Department of Homeland Security or Immigration and Customs Enforcement for deportation. If this is the case and criminal undocumented aliens are either deported or temporarily held for deportation hearings, then local detention facilities may not experience the full financial burden of detaining offenders for the duration of their sentence if convicted of misdemeanor offenses. Local expenditures for holding criminal unauthorized aliens will depend on federal action regarding deportation hearings.

**Background-** It is estimated that there are 100,000 undocumented migrants in Indiana as of 2006. The average cost per day to incarcerate an individual in a county jail is approximately \$44.

As an example, if local law enforcement were to detain 10% of the estimated 100,000 undocumented migrants in Indiana, then about 10,000 additional persons could be incarcerated in local jails. If the 10,000 persons were incarcerated for an average of one day (assuming a federal response time of about one day for pick up), the incarceration cost is estimated at \$0.44 M (or 10,000 x \$44). If the response time were about three days, on average, the estimated cost would be about \$1.3 M (\$0.44 M x three days).

**Explanation of Local Revenues:** Under the SCAAP program, a portion of the costs for incarcerating or detaining undocumented criminal aliens will be reimbursed to local detention facilities provided detained individuals qualify under program guidelines. The actual amount that local detention facilities will receive is indeterminable, but will depend on qualifying expenses and criminal convictions of incarcerated undocumented criminal aliens.

**Background Information:** The counties that received payments from the SCAAP program in FFY 2009 and the total amounts received are shown in Table D.

<b>Table D: 2009 County SCAAP Awards</b>	
<b>County</b>	<b>Amount Received</b>
Allen	\$38,592
Cass	\$7,854
Grant	\$6,420
Hamilton	\$24,030
Hendricks	\$10,502
Johnson	\$7,719
Marion	\$75,402
Noble	\$11,340
Porter	\$2,486
<b>Total</b>	<b>\$184,345</b>

**State Agencies Affected:** ISP; DOC.

**Local Agencies Affected:** Local law enforcement agencies, local correctional facilities.

**Information Sources:** *State of Indiana List of Appropriations, July 1, 2007, to June 30, 2009*; Pew Hispanic Center: *The Foreign Born Populations in the U.S. and Indiana, Presentation to the Interim Study Committee on Immigration Issues, September 9, 2008*; United States Bureau of Justice Assistance; Tim Brown, DOC; Captain Sherry Beck, ISP.

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